ST. MARY'S COUNTY BOARD OF COUNTY COMMISSIONERS MAY 9, 1995

Present:

Commissioner Barbara R. Thompson, President

Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Edward V. Cox, County Administrator
Judith A. Spalding, Recording Secretary

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, May 2 and Thursday, May 4, 1995. Motion carried.

APPROVAL OF BILLS

Commissioner Chesser moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the Check Register as presented. Motion carried.

COUNTY ADMINISTRATOR'S CONTRACT

Commissioner Chesser moved, seconded by Commissioner Thompson, to renew County Administrator Edward V. Cox's employment contract for two years. Motion failed three to two, with Commissioners Brugman, Eagan and Jarboe voting against.

COUNTY ATTORNEY'S CONTRACT

Commissioner Eagan moved, seconded by Commissioner Jarboe, that County Attorney Densford's contract be acted on in public session. Motion carried three-one-one with Commissioner Thompson voting against and Commissioner Eagan abstaining. Commissioner Thompson stated she voted against the motion because she did not believe this required a vote in public session.

(Commissioner Eagan excused herself from participating in the discussion because Mr. Densford is her personal attorney.)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to not renew the County Attorney's employment contract. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) Response Letter Application for Building Permit

The County Administrator presented correspondence responding to Mr. Dennis Hubscher's letter of April 22 requesting assistance regarding his application for a building permit for an addition to his home. The return letter suggests that Mr. Hubscher await the formal notice of the findings of the Maryland Department of the Environment and then exercise his right to appeal.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign the letter as presented.

2) Resolution No. 95-19 Agricultural Land Preservation Application for Certification

As a follow up to the May 4 presentation, the County Administrator presented Resolution No. 95- establishing the St. Mary's County's Agricultural Land Preservation Program to be administered by the Agricultural Land Preservation Advisory Board, and the Departments of Economic and Community Development and Planning and Zoning. In addition Mr. Cox presented the State Certification of County Agricultural Land Preservation Programs Application for Certification.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign Resolution No. 95- and to authorize Commissioner Thompson to sign the Application for Certification as presented. Motion carried.

3) Appointment of Auditor, Financial Advisor, and Bond Counsel

The County Administrator presented a memorandum dated May 4 from the Director of Finance requesting the Commissioners' approval regarding the appointment of auditor, financial advisor and bond counsel.

He recommended that the Commissioners exercise the second year option to have the auditing services provided by Cox, Long and Askey. He further recommended the appointment of H. C. Wainwright & Company (A. Samuel Ketterman) as financial advisor and the law firm of Piper & Marbury as bond counsel for Fiscal Year 1996.

After discussion Commissioner Chesser moved, seconded by Commissioner Eagan, to approve the appointments as recommended. Motion carried.

4) Cat Creek Dredging Project Right of Entry and Use Agreements

The County Administrator presented the following Right of Entry and Use Agreements for the deposit of spoil material for the Cat Creek Dredging Project:

- Dated March 29, 1995 between Cape St. Mary's Marina Partnership and the Board of County Commissioners of St. Mary's County
- Dated March 29, 1995 between Irene B. Muise and Robert J. Hamilton and the Board of County Commissioners of St. Mary's County

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize Commissioner Thompson to sign the Agreements as presented. Motion carried.

5) Grants

The County Administrator presented the following grants for the Commissioners' review and consideration:

Board of Education

Request to include grant award in the amount of \$36,500 for Certification and Accreditation in the Fiscal Year 1995 Budget.

Homeless Prevention Program

Fiscal Year 1996 Homeless Prevention Program Contract in the amount of \$35,200

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the Grants as presented. Motion carried.

6) Resolution No. 95-22 Appointment of Health Department as Lead Agency for the Infants and Toddlers Program

The County Administrator presented the referenced Resolution appointing the St. Mary's County Health Department as the Lead Agency for the Infants and Toddlers Program.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 95-22 as presented. Motion carried.

7) Patuxent River Water Resources Study Point of Contact

The County Administrator presented correspondence addressed to the U. S. Army Corps of Engineers designating Mr. Jon Grimm, Director, Department of Planning and Zoning as the County's "point of contact" for the Patuxent River Water Resources Study.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to sign and forward the letter as presented. Motion carried.

8) Budget Amendments

The County Administrator presented the following budget amendments recommended for approval by the Director of Finance with justifications as indicated:

No. 95-43

State's Attorney

Justification: Contract Services (\$1,000)

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Budget Amendment as presented. Motion carried.

No. 95-44

Department of Public Works

Justification: To provide funding for utility relocation for the Miles Special Taxing District (\$450)

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Budget Amendment as presented. Motion carried.

No. 95-45

Board of Education

Justification: To adjust revenues and expenditure forecasts and to transfer funds for equipment and textbooks

The Commissioners deferred a decision on Budget Amendment No. 95-45 until they had an opportunity to discuss it with Public School's Finance Officer.

9) Reclassifications

The County Administrator presented a memorandum dated May 8 from the Personnel Officer indicating that 18 requests for reclassifications had been received and that it was staff's recommendation that none be approved.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to accept staff's recommendations as presented. Motion carried.

10) Response Letter Myrtle Point

The County Administrator presented correspondence responding to a May 3 letter from the Potomac River Association regarding economic benefits of parks, the purchase of Myrtle Point, and the approach to economic development activities. The return letter advises that the May 3 letter has been shared with the Departments of Recreation and Parks and Economic and Community Development and that the comments will be considered as the Commissioners proceed through the decision-making process.

Commissioner Brugman moved, seconded by Commissioner Eagan, to sign and forward the letter as presented. Motion carried.

11) Appointments Boards, Committees, Commissions

Commissioner Brugman moved, seconded by Commissioner Chesser, and motion carried, to make the following appointments with terms as indicated:

Regional Solid Waste Management Task Force	Terms to Expire
Tom Tudor	No Term
Larry Petty	No Term
Bill Mattingly	No Term
George Erichsen	No Term

Southern Maryland Resource Conservation and Development Board

Thomas Tudor 3/1/97

12) Cooperative Reimbursement Agreement Application

On behalf of the Circuit Court for St. Mary's County the County Administrator presented the referenced Cooperative Reimbursement Agreement Application for child support enforcement and collection services in the total amount of \$65,812 for the period July 1, 1995 - June 30, 1996.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Agreement as presented. Motion carried.

13) "Maryland You Are Beautiful" Program

The County Administrator presented correspondence received May 9 from the Governor's Maryland You Are Beautiful Office requesting the appointment of coordinator for St. Mary's County for the annual "Maryland's Most Beautiful People" Volunteer Awards Program. Mr. Cox explained that in the past Cynthia Brown, Director, Office of Community Services, has served as the local coordinator and recommended that Ms. Brown be again selected to serve in that role.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to appoint Cynthia Brown as St. Mary's County's Coordinator for the "Maryland's Most Beautiful People" Program. Motion carried.

PROCLAMATION NATIONAL NURSES' WEEK

The Commissioners presented a Proclamation designating the week of May 7 - 13 as National Nurses' Week in St. Mary's County.

RECREATION AND PARKS

Present:

Phil Rollins, Director

Claude Clarke, Recreation Facility Manager Art Shepherd, Youth Program Coordinator

1) Summer Camp Scholarship Program

Also Present: Jean Valentine

Representatives from Recreation and Parks appeared before the Commissioners to inform the Board about the establishment of a Scholarship for Camps to provide a camp program for 100 underprivileged school-aged children. Mr. Shepherd advised organizations and businesses are being solicited to provide funding in the amount of \$5,000 for the program and \$2,700 has been collected to date. At the completion of the camps the children will be required to submit a short story on their camp experiences to the civic organization or business donor.

2) Teen Center

Also Present: Donna Oztas, Director, Teen Center

Mr. Clarke gave an overview of the history of the Teen Center advising that the first center was located at the old Frank Knox School and then moved, to the old Hub Store in Lexington Park. The Center subsequently closed down because of problems in the neighborhood and in September 1994 the Teen Center was opened at the Chancellors Run Regional Park. He explained the operating hours, programs, staffing, participation and a financial summary which indicated a net loss of \$19,021. Mr. Rollins reviewed with the Commissioners options for plans of action to handle the deficit including reduction of hours, fundraising, county funding, and the closing of the Center. Commissioner Eagan suggested the possibility of working with the Alliance and the Sheriff's Department in seeking grant funds.

3) Regional Park Report

Mr. Rollins presented an overview of the activities at the Regional Park and indicated that the use of the baseball/softball fields is down this season approximately 50 games as compared to last year. He pointed out that this reduced use impacts revenues from the concession stand. During review of the Fiscal Year 1995 financial summary Mr. Rollins noted there is a deficit of approximately \$19,000. He pointed out that this would not be a problem for this fiscal year, but there will be a need to reduce the deficit next fiscal year. In addressing the deficit, Mr. Rollins reviewed plan of action options including user fees, increased concession revenue, everyone use versus maximized use and revenue, sale of beer for adult tournaments, relook at Special Facilities Division, reduce costs, and additional county funds for basic operating costs.

Mr. Rollins advised that he would keep the Commissioners updated on the regional park financial situation.

4) Gymnastics Center Expansion Proposal

As a follow up to the April 25 Commissioners' meeting, Mr. Rollins presented the proposed Lease for the expansion of the Gymnastics Center at the old K-Mart building. He pointed out the changes that had been made to the proposed lease presented on that date regarding a buy-out clause and the possible provision of an additional restroom facility, the cost of which would be borne by the landlord.

After discussion Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Lease for the expansion of the Gymnastics Center at the old K-Mart building in Lexington Park. Motion carried.

EXECUTIVE SESSION

Commissioner Chesser moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a matter of Personnel, as provided for in Article 24, Section 4-210(a)1. Motion carried three to two with Commissioners Brugman and Eagan voting against.

Personnel - Employment Contract

Present: Commissioner Barbara R. Thompson, President

Commissioner Paul W. Chesser Commissioner Frances P. Eagan Commissioner Lawrence D. Jarboe

Cynthia Brown, Director, Office of Community Services

Judith A. Spalding, Administrative Officer

(Commissioner D. Christian Brugman did not participate)

Authority: Article 24, Section 4-210(a)1 Time Held: 10:50 a.m. - 11:05 a.m.

Action: The Commissioners discussed an Employment Contract.

SOCIAL SERVICES BOARD ANNUAL REPORT

Present:

Ella May Russell, Director Helen Daugherty, Chair

The referenced individuals appeared before the Commissioners to present the 1994 Annual Report of the Social Services Board. Mrs. Russell highlighted the services provided by the Department of Social Services including Income Maintenance Programs, Services Programs, Child Welfare, Adult Services, and Child Support Enforcement Program.

A copy of the report is on file in the Commissioners' Office.

RESOLUTION NO. 95-21 COMPREHENSIVE SOLID WASTE PLAN

Present:

Dan Ichniowski, Director, DPW

Bill Mattingly, Solid Waste Advisory Committee

As a follow up to the April 20 public hearing on the Comprehensive Solid Waste Plan, the Commissioners reviewed the comments from the hearing.

After discussion Commissioner Chesser moved, seconded by Commissioner Eagan, to accept the changes recommended by the Advisory Committee and that the areas to be deferred to the County Commissioners be put on hold until a future review of the Plan, and further that the Plan be submitted to the Maryland Department of the Environment. Motion carried.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign Resolution No. 95-21 amending the Comprehensive Solid Waste Management Plan. Motion carried.

COUNTY ADMINISTRATOR'S/COUNTY ATTORNEY'S POSITIONS CRITERIA FOR ADVERTISING VACANCIES

Present:

George Foster, Personnel Officer

As a follow up to last week's discussion Mr. Foster presented the Hire Decisions for the County Administrator's and the County Attorney's positions.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve Items One through Six of the Hire Decisions of the County Administrator's position. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve Items One through Six of the Hire Decisions of the County Attorney's position. Motion carried.

Items Seven through Eight will be decided upon during the process of filling the positions.

FISCAL YEAR 1996 BUDGET

Present:

Charles Wade, Director of Finance

Martha Jones, Budget Analyst

Operating Budget

As a follow up to last week's discussion Mr. Wade presented a handout setting forth information relative to the Fiscal Year 1996 Budget and reviewed the tentative actions taken by the Commissioners on May 4.

After discussion Commissioner Eagan moved, seconded by Commissioner Jarboe to accept the recommended changes to Expenditures to the Fiscal Year 1996 Budget. Motion carried.

Capital Budget

Mr. Wade referred to correspondence dated May 4, 1995 from St. Mary's Public Schools requesting the Commissioners' consideration regarding Public School's Capital Improvement projects. The letter indicates that the State did not fund the Spring Ridge Middle School roof repairs and that the project will require the \$729,000 committed by the County in the proposed FY '96 Capital Improvement Program. Mr. Wade advised that the project has been included in the FY '96 CIP to be funded through the Bond issue.

The May 4 letter from the Board of Education listed projects for consideration by the Board for the FY '96 Capital Improvement Program including Banneker/Loveville Elementary School PreK classroom addition; Asphalt resurfacing; Town Creek Elementary School Entrance/Parking modifications; Leonardtown High School track resurfacing. Mr. Wade recommended that these projects be deferred until Fiscal Year 1997.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to transfer the \$251,000 for the Judicial Center to the Board of Education's Capital Improvement Budget. Motion failed four to one with Commissioners Thompson, Brugman, Chesser, and Eagan voting against.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to accept the Capital Improvement Budget as presented and that the Commissioners will keep their options open for flexibility in the budget. Motion carried.

Letter to Board of Education

Mr. Wade presented correspondence addressed to the St. Mary's Board of Education advising that the Board of County Commissioners will appropriate \$36,479,686 to the Board of Education for Fiscal Year 1996.

Commissioner Brugman moved, seconded by Commissioner Eagan, to sign and forward the letter to the Board of Education. Motion carried.

COUNTY COMMISSIONERS' TIME

Camp Merryelande

Commissioner Brugman indicated that the Commissioners have not yet received the packets of information from the Department of Planning and Zoning relative to the request by Michael Evans for an additional EDU for Camp Merryelande.

Myrtle Point

Commissioner Brugman suggested that the Commissioners give the Commission on the Environment an opportunity to comment on the Myrtle Point property. The Commissioners concurred with this recommendation and requested that Mr. Pinto be scheduled on a future agenda.

EMPLOYMENT CONTRACT DIRECTOR, OFFICE OF COMMUNITY SERVICES

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve the Employment Contract of Cynthia Brown. Motion carried.

EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Litigation, as provided for in Article 24, Section 4-210(a)8. Motion carried.

Litigation - The Skydiving Center

Present: Commissioner Barbara R. Thompson, President

Commissioner D. Christian Brugman Commissioner Paul W. Chesser Commissioner Frances P. Eagan Commissioner Lawrence D. Jarboe Edward V. Cox, County Administrator

Joe Densford, County Attorney

Dave Seeman, Chair, Airport Commission

Glen Gardner,

William D. McGarity

Pete Weiskopf,

Judith A. Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)8

Time Held: 2:40 p.m. - 3:12 p.m.

(County Attorney Densford and Airport Commission members left the session at 2:55 p.m.)

Action: The Commissioners discussed the referenced legal matter and agreed to take action on a Resolution in Open Session.

RESOLUTION NO. 95-20 ST. MARY'S COUNTY AIRPORT RULES

Present:

Joe Densford, County Attorney

As a follow up to the Executive Session Mr. Densford presented a Resolution suspending certain Rules for the operation of the St. Mary's County Airport pending review by the FAA in deference to the concern expressed by the Court in the litigation between the Skydiving Center and the County in U. S. District Court about the possible harm of such Rules to the business of the Skydiving Center. The Resolution, which addresses the issues of Enforcement Officer, Drop Zone Manager, Night Parachuting, Ten Person Skydiving Limit, Designated Parachute Drop Zone, and Hearing Officers, supersedes Resolution No. 95-04 and Resolution No. 95-16.

Commissioner Eagan moved, seconded by Commissioner Brugman, to approve and sign Resolution No. 95-20 as presented. Motion carried.

7:00 P. M.

PUBLIC HEARING HOLLYWOOD SHORE SPECIAL TAXING DISTRICT SHORE EROSION CONTROL

Present:

Dan Ichniowski, Director, DPW

Jay McGrath, Engineer, DPW

Hollywood Shores Subdivision property owners

The Board of County Commissioners conducted a public hearing to present the completed plans, specifications and construction estimate for the proposed stone revetment and timber bulkhead at the Hollywood Shores Shore Erosion Control District.

Mr. Ichniowski read the Notice of Public Hearing and presented the Return Receipts of the Certified Mail sent to the property owners notifying them of the hearing.

Mr. McGrath reviewed the procedures for establishing the Special Taxing District and advised that a Public Informational Meeting was held May 29, 1991. Resolution No. 91-28 was adopted by the Board of County Commissioners August 27, 1991 establishing the Hollywood Shores Special Taxing District.

During his presentation Mr. McGrath advised that all necessary permits from the State have been obtained and that the State has gone forward with bids on the project which was 20% below the estimated cost. He advised that the total cost of the project is \$118,841 and with the administration fee of 5% the assessment to the property owners will be \$39.51 per property owner per year.

After the presentation the Commissioners opened the hearing for comments from the audience:

Charles Hudson - Stated that five years ago 75% of the property owners' signatures were required in order for the project to be approved and requested that 75% of the property owners that live there now be required to sign a petition. He suggested a ballot process for the petition and that the ballots be returned by mail to DPW.

Mr. Ichniowski advised that the prior petition from the property owners was with the understanding that there would be a 25-year loan from the State, and the pay back period has now been changed by the State to 15 years. This change has required the County to obtain a Reaffirmation Petition with signatures of 75% of the property owners. With regard to using ballots Mr. Ichniowski indicated that this would take cooperation of the community and the County.

Pat Courtney - Inquired as to the expected life of the timber and maintenance of the project.

Mr. McGrath responded that the timber should have a 20 - 30 year life and that any maintenance would be added to the taxing district.

Jim Dollarton - (1) Inquired as to who paid for the Sandgates Shore Erosion Project; (2) inquired whether the road at the top of the hill would remain closed.

Mr. McGrath stated that the County paid for it because it was for the protection of a county road. He advised that the road is the property owners' property and is noted as open space in the subdivision and is maintained by the civic association.

Pamela Johnson - Inquired whether there would be something around the point to keep it from washing back and whether the other side would close up.

Mr. McGrath stated that the bulkhead would create enough jetting to prevent this and the stone toe protection of the bulkhead will be provided around the point.

Bill Andrews - Referred to the special taxing district for the roads stating that the roads when completed were turned over to the County, but that the association would have to pay for maintenance of the shore erosion project questioned whether they would have to keep it open for public access.

Mr. McGrath advised that the County participated in the construction costs for the road project, but since the property owners are repaying this loan in full, it would remain private.

Francis Holmes - Commended the project, but expressed opposition to using state funds for it. He referred to his deed which indicates that he has all rights, privileges, and access to the water, but that he has been denied access and questioned the use of state money by the civic association for this project because he believed it is in conflict with state law.

Jim Sotelo - Responded that no one is denied access to the property. He stated there is a gate blocking the entrance because of a pier that belongs to the association and that unless the property owner joins the association, access to the pier is denied.

Ron Larsen - Spoke in support of the project

John Wester - Spoke in support of the project stating it will increase property values.

Ray Rollins - Spoke in support of the project stating that two to three feet of property is being lost each year because of the erosion.

Bill Oliver - Inquired whether the property owners would be able to reclaim any of the beach on the other side.

Mr. McGrath advised that it was state policy that once the land was lost it could not be reclaimed. However, he described an option that if the property owners mitigated the area, had documentation (surveys, photographs), and went through public hearings with COE and the State, it may be possible.

Elizabeth Reynolds - Inquired whether signatures would have to be gotten if new people move into the area.

Mr. McGrath responded they would not have to do that.

Pamela Johnson - Inquired as to whether the wall will be maintained and paid for after the loan is paid off.

Mr. McGrath referred to other special taxing districts stating that if the loan is still outstandingand repairs are needed, it is added to the district and the pay back period is extended.

Bill Oliver - Inquired when the project could begin.

Mr. McGrath stated that once the Affirmation Petition is received and the County agrees to go forward the project will proceed.

Scott Lewis - Inquired if maintenance is required in five years, if it would be added to the cost, and if there would be a public hearing.

Mr. McGrath responded that it would be added to the cost that the cost per year would not increase, but the term of the loan would extended. There would be no annual cost increase unless the number of property owners is reduced.

Jeff Guy - Inquired who would determine what maintenance work would need to be done.

Mr. McGrath responded that Public Works would work with the Shore Erosion Control Division of DNR.

Commissioner Eagan - Inquired if there was a warranty on the project for a certain period of time.

Mr. McGrath responded there was no warranty.

Ron Nicholson - Inquired whether the construction costs could be increased

Mr. McGrath stated that the project was a lump sum contract and not unit priced.

Joe Schimek - Inquired which agencies/departments would be doing the supervision of the project.

Mr. McGrath advised that both the State and County will be conducting inspections.

An individual inquired as to liability if a property owner builds a structure in the water which caused erosion.

Mr. McGrath responded that the individual could be liable to a civil suit.

Carole McCoy - Asked if the Association would be responsible for getting the petition signed.

Commissioner Thompson responded that the Association could assist in the follow up to ensure that the property owners sign the petition and return it to the County.

Larry Courtney - Inquired about joint ownership of a lot and the method of determining responsibility of payment assessment.

Mr. McGrath responded that the cost would be shared by the property owners.

Bill Oliver - Inquired who would be responsible for the assessment payment if he should sell his house.

Mr. McGrath advised that the new owner would be responsible in that assessment runs with the land not the individual.

Mary Mandy - Inquired about the maintenance costs.

Mr. McGrath stated that if its a major reconstruction DPW would let the community know the extent of needed repairs and costs; however, if it routine maintenance, the work would be done and added to the loan.

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The public hearing concluded and the Commissioners advised that the record will remain open for ten days.

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

Minutes Approved by Board of

County Commissioners on 5/16/95

Recording Secretary